

AMENDED IN SENATE AUGUST 30, 2000

AMENDED IN SENATE AUGUST 21, 2000

AMENDED IN SENATE JUNE 22, 2000

AMENDED IN ASSEMBLY MAY 10, 2000

AMENDED IN ASSEMBLY APRIL 13, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2729

Introduced by Assembly Member Wesson

February 25, 2000

An act to amend Section 12110 of, and to add Section 13351.85 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2729, as amended, Wesson. Vehicles: towing service.

(1) Existing law prohibits a towing service from providing a gift, commission, or compensations in consideration of arranging or requesting services, and prohibits any person or public entity from accepting these gifts, commissions, or compensations. Existing law also prohibits a towing service or the employee of a towing service from accepting anything of value from a repair shop for the delivery of a vehicle to the shop and prohibits a repair shop from paying anything of value to a tow truck service for delivery of a vehicle.

This bill would prescribe the punishments for first and subsequent violations of these provisions, and would provide additional measures relating to impounding tow trucks,

including a requirement that the court order the Department of Motor Vehicles to suspend the driving privilege, as specified, if a tow truck ~~operator~~ driver is involved. Because of this requirement regarding the court, and because a violation of this provision would subject the offender to an increased period of confinement in the county jail, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12110 of the Vehicle Code is
2 amended to read:

3 12110. (a) Except as provided in subdivision (b), no
4 towing service shall provide and no person or public
5 entity shall accept any direct or indirect commission, gift,
6 or any compensation whatever from a towing service in
7 consideration of arranging or requesting the services of
8 a tow truck. As used in this section, “arranging” does not
9 include the activities of employees or principals of a
10 provider of towing services in responding to a request for
11 towing services.

12 (b) Subdivision (a) does not preclude a public entity
13 otherwise authorized by law from requiring a fee in
14 connection with the award of a franchise for towing
15 vehicles on behalf of that public entity. However, the fee
16 in those cases may not exceed the amount necessary to
17 reimburse the public entity for its actual and reasonable
18 costs incurred in connection with the towing program.

19 (c) Any towing service or any employee of a towing
20 service that accepts or agrees to accept any money or
21 anything of value from a repair shop and any repair shop
22 or any employee of a repair shop that pays or agrees to pay

1 any money or anything of value as a commission, referral
2 fee, inducement, or in any manner a consideration, for
3 the delivery or the arranging of a delivery of a vehicle, not
4 owned by the repair shop or towing service, for the
5 purpose of storage or repair, is guilty of a misdemeanor,
6 punishable as set forth in subdivision (d). Nothing in this
7 subdivision prevents a towing service from towing a
8 vehicle to a repair shop owned by the same company that
9 owns the towing service.

10 (d) Any person convicted of a violation of subdivision
11 (a) or (c) shall be punished as follows:

12 (1) Upon first conviction, by a fine of not more than
13 five thousand dollars (\$5,000) or imprisonment in the
14 county jail for not more than six months, or by both that
15 fine and imprisonment. If the violation of subdivision (a)
16 or (c) is committed by a tow truck ~~operator~~ driver, the
17 person's privilege to operate a motor vehicle shall be
18 suspended by the department under Section 13351.85.
19 The clerk of the court shall send a certified abstract of the
20 conviction to the department. If the violation of either
21 subdivision (a) or (c) is committed by a tow truck
22 ~~operator~~ driver, the court may order the impoundment
23 of the tow truck involved for not more than 15 days.

24 (2) Upon a conviction of a violation of subdivision (a)
25 or (c) that occurred within seven years of one or more
26 separate convictions of violations of subdivision (a) or
27 (c), by a fine of not more than ten thousand dollars
28 (\$10,000) or imprisonment in the county jail for not more
29 than one year, or by both that fine and imprisonment. If
30 the violation of subdivision (a) or (c) is committed by a
31 tow truck ~~operator~~ driver, the person's privilege to
32 operate a motor vehicle shall be suspended by the
33 department under Section 13351.85. The clerk of the
34 court shall send a certified abstract of the conviction to
35 the department. If the violation of either subdivision (a)
36 or (c) is committed by a tow truck ~~operator~~ owner, the
37 court may order the impoundment of the tow truck
38 involved for not less than 15 days but not more than 30
39 days.

1 SEC. 2. Section 13351.85 is added to the Vehicle Code,
2 to read:

3 13351.85. Upon receipt of a duly certified abstract of
4 any court showing that a person has been convicted of a
5 violation of Section 12110, the department shall suspend
6 that person's driving privilege for four months if the
7 conviction was a first conviction, and for one year, if the
8 conviction was a second or subsequent conviction of a
9 violation of that section that occurred within seven years
10 of the current conviction.

11 SEC. 3. No reimbursement is required by this act
12 pursuant to Section 6 of Article XIII B of the California
13 Constitution because the only costs that may be incurred
14 by a local agency or school district will be incurred
15 because this act creates a new crime or infraction,
16 eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section
18 17556 of the Government Code, or changes the definition
19 of a crime within the meaning of Section 6 of Article
20 XIII B of the California Constitution.

